IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 21692 of 2005(G)

PETITIONER:

K.NARAYANAN NAMBIAR, AGED 83 YEARS,
KAKKOPRATH HOUSE, CHELERI AMSOM, VALAVIL CHELERI DESOM, CHELERI P.O. KANNADIPARAMBA, KANNUR DIST.

BY ADV. SRI.M.SASINDRAN
SRI.SREEJITH S.NAIR

RESPONDENTS:

---

1. THE DISTRICT COLLECTOR, KANNUR.

2. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF GENERAL ADMINISTRATION, THIRUVANANTHAPURAM.

3. THE UNION OF INDIA, REPRESENTED BY UNDER SECRETARY TO GOVERNMENT, MINISTRY OF HOME AFFAIRS, FREEDOM FIGHTERS CELL, LOK NAYAK BHAVAN, NEW DELHI.

BY ADV. SRI. P. PARAMESWARAN NAIR for R3
SRI. K.V. MANOJ, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE SWATANTRATA SAINIK SAMMAN PENSION SCHEME.

EXT.P2: TRUE COPY OF THE PERSONAL KNOWLEDGE CERTIFICATE ISSUED BY A PROMINENT FREEDOM FIGHTER SR. K.P.R. RAYARAPPAN.

EXT.P3: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER.

EXT.P4: TRUE COPY OF THE LETTER DATED 28.10.1998.

EXT.P5: TRUE COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT SENDING PERSON TO THE PETITIONER UNDER THE KERALA FREEDOM FIGHTER'S PENSION SCHEME.

EXT.P6: TRUE COPY OF THE COMMUNICATION DATED 10.11.2003 OF THE 1ST RESPONDENT.

/True Copy/

P.A to Judge.

T.R. RAMACHANDRAN NAIR, J

==========

W.P.(C) NO. 21692 OF 2005

==========

Dated this the 2nd day of August, 2007.

JUDGMENT

The petitioner is seeking for a direction to the 3rd respondent to consider the grant of SSS Pension to him. Ext.P1 is the relevant scheme. The petitioner's claim is mainly based on his participation in the Morazha struggle which took place in the erst while Malabar district which was a part of Madras Presidency. He remained underground for one year for the period from 16.09.1940 to 30.09.1941. It is stated that he was a proclaimed offender and warrant of arrest was issued against him in connection with his participation in the struggle. He has produced Ext.P2, the personal knowledge certificate from Shri. K.P.R. Rayarappan who was a holder of 'Thamrapathra' and also was a recipient of Central Freedom Fighters Pension under the Ministry of Home Affairs order No. FF.1688/19/1/General/74 dated 16.12.1974. In the above certificate, the certifier has stated that he had undergone imprisonment for more than 3 years during the freedom struggle in Cannnore and Vellur Jails. Ext.P3 is the application submitted by the petitioner for grant of pension. The Central Government as per Ext.P4 informed the petitioner that the application has to be routed through the State Government and they will have to submit a verification and entitlement report with specific recommendation.

2. The petitioner is aggrieved by Ext.P6, a reply issued by the District Collector dated 10.11.2003 stating that the District Advisory Committee has chosen to reject his application. The learned counsel for the petitioner points out that as far as the application under the SSS pension scheme is concerned, the ultimate authority to take a decision is the Government of India and not the District Collector or any other authority under the State. Relying upon Ext.P5 order dated 10.02.1999 wherein the petitioner was granted pension under the Kerala Freedom Fighters Pension Scheme, the learned counsel also points out that there is no basis for the decision of the Advisory Committee as his claim for pension under the said scheme has already been sanctioned and therefore the decision of the District Advisory Committee referred to in Ext.P6 is without any application of mind. A reading of Ext.P5 shows that that was based on the decision of the District Advisory Committee on 24.12.1998 to sanction pension to him. Therefore, it is beyond comprehension as to what prompted the District Advisory Committee to retrace their steps as regards the claim for SSS pension nearly four years after Ext.P5 was issued. Of course, the scheme framed by the Central Government has to be administered as per the provisions of the said scheme. When the freedom fighters have been granted pension under the scheme framed by the State on

the basis of the sufferings in the very same movement, then that person cannot be called upon to substantiate his claim before the authorities of the State by a repetitive process. The same is not the requirement of law.

3. Therefore, what remains is to direct the State Government to forward the verification and entitlement report to the Union of India for processing the application of the petitioner. The 1st and 2nd respondents are therefore directed to forward the required report to the Central Government especially in the light of Ext.P5 order granting pension under the Kerala Freedom Fighters Pension Scheme to the petitioner. The same shall be done within a period of six weeks from the date of receipt of the copy of the judgment. The 3rd respondent shall process the same and take a decision on its merits within a further period of 3 months thereof and the result will be duly communicated to the petitioner. If the petitioner wants to produce any additional materials before the concerned authorities, he will be free to do so.

The writ petition is disposed of accordingly.

T.R. RAMACHANDRAN NAIR, JUDGE.

rv